THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.28149 OF 2005

Dated: 30-12-2005

Between

Mudunuri Venkata Narasimharaju

S/o. Satyanarayana Raju,

R/o. Kalla (V & M), West Godavari

District.

...PETITIONER

AND

Mandal Revenue Officer, Kalla

Mandal, Kalla, West Godavari

District.

...RESPONDENT

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondent vide his proceedings Roc No.1392/2005(A) dated 28.12.2005 ordering eviction of the petitioner as illegal and arbitrary.

Learned counsel for the petitioner submits that the Mandal Revenue Officer - respondent issued a show cause notice dated 12.12.2005 to the petitioner under Sub Section (2) of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers Act, 1977) (for

short ‘the Act’) stating that petitioner was in possession of assigned lands situated in an extent of Ac.2.28 cents in S.Nos.785/21, 787/21 and 810/11 and directed him to submit an explanation within fifteen days as to why he should not be evicted from the said lands. As against the show cause notice petitioner submitted explanation on 27.12.2005 stating that he has been in possession of the said lands for the last thirty-five years and the said lands were never assigned to any other person. The said explanation was rejected by proceedings of the respondent dated 28.12.2005 holding that one Smt. Kamuju Sarojini w/o. Late Anjaneyulu, filed a petition stating that the lands were originally assigned to her husband, which are in occupation of the petitioner herein, and requested for restoration of the said lands in accordance with the provisions of the Act and hence, the lands shall be restored to Smt. Gubbala Chittemma, daughter and legal heir of the deceased assignee.

Learned counsel for the petitioner further submits that, in fact, the impugned order does not indicate the assignment of said lands in favour of husband of the Smt. Kamuju Sarojini and without considering any of the contentions raised in the explanation submitted to the show cause notice, the final orders have been passed.

This Court is not inclined to express any opinion on the merits of the case for the reason that a right of appeal is available to the petitioner under Section 4(A) of the Act. Accordingly, the petitioner is permitted to file an appeal within two weeks from the date of receipt of a copy of this order making Smt. Gubbala Chittemma, daughter and legal heir of deceased assignee, late K. Anjaneyulu as party.

As the petitioner is in possession of the said lands, the impugned order of the Mandal Revenue Officer dated 28.12.2005 stands stayed pending disposal of the appeal to be filed before the Revenue Divisional Officer.

If no appeal is filed within two weeks from the date of receipt of a copy of this order, the stay order automatically stands vacated.

On such an appeal being filed, the appellate authority may consider and dispose the same after giving reasonable opportunity to the petitioner and the legal representatives of the deceased assignee, in accordance with law.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

December 30, 2005

DSK